IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 226 OF 1991

Kondiba Rau Shinde) ..Petitioner.
r/at Village Gargoti,) (Org.Tenant)
Tal.Bhudargad, Dist.Kolhapur.)

Versus

Smt. Rukminibai Krishnaji Joshi) ..Respondent.
deceased, by heir :-) (Org.Landlady)
Mrs. Vibhavari R. Gulwani)
r/a. M.S.E.B. Colony, Bapat Camp,)
Kolhapur,through power of attorney)
holder R.S.Gulwani.)

Mr. S.A. Raje Shirke for the Petitioner.

None present for the Respondent.

CORAM : S. A. BOBDE, J.

DATED : 12TH JULY, 2005.

ORAL JUDGMENT:

1. The petitioner has challenged the order of the Principal Secretary (Revenue Appeals and Revisions),

Revenue and Forests Department, Govt. of Maharashtra, Bombay, dated 18th September, 1990, by which the Principal Secretary has confirmed the order of the Additional Commissioner, Pune Division, Pune, dated 27th September, 1988. The result is, that the petitioner's application for having his name entered in the crop cultivation column in respect of agricultural land, admeasuring 3 Hectors and 67 Ares bearing Gut No. 258, has been rejected.

2. Briefly, the learned Principal Secretary has by the impugned order, held that the petitioner is not entitled to have his name entered in the revenue record as being in possession because he does not appear to be in lawful possession of the land. Mr. Raje Shirke, the learned Advocate for the petitioner, submitted that the Principal Secretary could not have arrived at this finding since the petitioner has been found to be in actual possession of the land. Therefore, according to the learned counsel, the order deserves to be set aside.

3. The contention on behalf of the petitioner need not be considered in view of the fact that the impugned order is made in a second revision, which is

not permissible under the Maharashtra Land Revenue Code. The order, in the first revision filed before the Additional Commissioner, is also against the petitioner and that has not been challenged. Even otherwise, it is clear that the revisional authority has not interfered with the question of fact, but on the question of the legality of the petitioner's possession. Having regard to the settled position of law laid down in Janabai Raghunath Khomane vs. Hirabai Malhari Atole, reported in 2003(2) Mh. L.J. 101, that the entries in the record of rights do not confer or divest the title in the property, but are essentially meant only for fiscal purpose of recovering revenue. There is no reason to interfere with the impugned order.

4. The learned counsel for the petitioner submitted that the petitioner is in possession of the suit land. If that be so, he would be entitled to resort to such appropriate proceedings as may be advised, in accordance with, law for lawful possession of the land. The impugned order does not call for any interference.

5. The petition is, therefore, dismissed. Rule

Nisi is discharged.

12.07.2005 (S.A.BOBDE,J)